

The Salisbury Planning Board held its regular meeting on Tuesday, May 11, 2004, in the City Council Chamber of the Salisbury City Hall at 4:00 p.m. with the following being present and absent:

PRESENT: Len Clark, Mitzi Clement, Dr. James Johnson, Lou Manning, Brian Miller, Rodney Queen, Sandy Reitz, Jeff Smith, Valerie Stewart, Albert Stout, Jerry Wilkes, Diane Young

ABSENT: None

STAFF: Janet Gapen, Diana Moghrabi, Joe Morris, David Phillips, Harold Poole, Patrick Ritchie

The meeting was called to order by **Co-Chairman Rodney Queen.**

Welcome to Diane Young, the newest and final member of the Salisbury Planning Board.

The minutes of April 27, 2004 were approved as published.

City and County Planning Boards will have a joint meeting on May 25 in the City Council Chamber at 217 South Main Street. The Salisbury Planning Board will have a meeting at 4:00 p.m. and at 5:00 the County will join us for heavy hors d'oeuvres and a meeting on items that will include greenways, the County Land Use Development Plan, and the City's Land Development Ordinance Committee.

ZONING MAP AMENDMENTS

(a) **Co- Chairman Queen** convened a Courtesy Hearing on Z-8-04.

Z-8-04 City of Salisbury - PO Box 479, Salisbury, NC 28145

LOCATION: 220 N. Church St., Salisbury, NC

Size: 1.7 acres

Existing Zoning: B-6, General Business

Add: Parking Exempt Overlay

Parcel: 10-136

Janet Gapen gave a staff presentation describing the site and defining the parking exempt overlay. This parking exemption exists over much of the downtown already. Janet explained the sight triangle and height limitations that would affect any sign or monument that may be placed in the Oak Grove/Freedman's Cemetery Memorial.

Those speaking in favor of the zoning change request:

Joe Morris, Planning and Community Development Manager for the City of Salisbury, 217 South Main St. - Mr. Morris is the petitioner making the request for the City. The

stone monument planned for this corner would exceed 36" in height. Currently this section of Church Street is one way so the visual line is not an issue. If this section of Church Street should be considered for two-way traffic in the future, a traffic signal would be installed due to the circumstances of the jail facility. (The jail is built at street right-of-way; already in the parking exempt overlay)

Those speaking in opposition to the zoning change request: None

The chairman closed the Courtesy Hearing on this case.

(b) Board Discussion:

Brian Miller asked if a design element has been chosen. **Mr. Morris** replied that the vision for the memorial is a 6' high monument; but, the final decision is pending on this decision of Planning Board and City Council.

Diane Young asked if this design element would have to go to the Historic Preservation Committee (HPC) for approval. **Mr. Morris** replied that there has been approval by the HPC for the design concept. With significant modification, it would be appropriate to go back to HPC. Mr. Morris pointed out that the fence that is at the site now is over three feet high.

Brian Miller made a motion to approve the parking lot exemption as submitted based on the fact that Church St is one-way at this site, and the current wall is already above the sight triangle requirement. Lou Manning seconded the motion with all members voting AYE.

SPECIAL USE PERMIT

SUP-03-04 Michael Lee King, 1131 North Main St.

(a) **Co-Chairman Queen** convened a courtesy hearing on **SUP-3-04**.

David Phillips made a staff presentation showing the location and photos of the property requesting the special use permit. With the current zoning of B-CS the property can operate as a grocery and deli now, but the owners feel the neighborhood has a specific need for the sale of gasoline. That is why they are making the request. The property is located within the historic district so any changes to the property will have to go through the Historic Preservation Commission (HPC) for approval.

Those speaking in favor of the special use permit request:

Michael King, President of ATIC, a corporation owned by Damascus Church, whose goal is to add the sale of gasoline. The church already has a permit to run a community grocery and deli. Their survey concluded that local residents have to travel out of the

area to purchase gasoline. There is no intention of selling alcoholic beverages or tobacco. This will be a case of a non-profit operating a for-profit business. It is the desire to create 12 new jobs and plan to train young people for employment. The building is currently boarded to protect the windows while the interior receives some cosmetic repairs. In the future, the structure could be expanded. Mr. Phillips has provided them with the HPC guidelines. The church is interested in operating the building as it previously was (a convenience store/gas station). There is a convenience store directly across the street that does not sell gasoline.

Kay Ferrins, 212 W. Henderson St., retired and a local minister. She feels that the community needs this convenience of a gas station because of the distance to any other service station.

Walter Tracey, 932 E. Lafayette Street, feels that this minority-owned business will service the youth in the neighborhood by creating new jobs and by offering training. It will also benefit the church financially.

Titus King, 108 Railroad Ave., East Spencer, feels that this business will help the church and the community. The growth in this location could also benefit the City.

Rachel Tracey, 932 E. Lafayette Street, is in favor of this business for the benefit of minorities in the area. She feels that Michael King will make this business a success and she would like to be employed by this business. Kay Ferrins is her mother and she sees the benefit of this service for her sake, too.

Ruth Henderson, 600 E. Cemetery Street, feels that churches used to be the backbone of the community and that is no longer true. This business could build the church financially to serve the people in the area. The success of this business could help to make the people more independent. The intent is to use the income from this business to direct young people and improve their lives.

Mr. Queen asked for a count of people in favor of this Special Use Permit. There were 23 adults and about 14 children who stood.

Those speaking in opposition to the special use permit request:

Edwardo George, 108 Henderlite Street, does not have a problem with the project. The problem is with the previous business. The tanks that were left behind created a pollution problem by leaching into his yard and the yards of the adjoining properties. There was a time when a neighbor was trying to sell his house and had difficulty selling due to this problem. For the safety of the neighborhood he would like to see a plan that would remedy any future environmental hazards. Mr. Queen asked if he was in favor or in opposition. Mr. George replied that he was both: In favor of the business and against any pollution the fuel may cause.

[NOTE: **Michael King** responded that the tanks have been removed from the ground. Mr. Helderman of Servco (previous owner of the land) did a clean-up to the property and received notification from the state that no further action was required. The new business will have to comply with the state requirements. Mr. George requested copies of this information.]

Mark Koontz, 1022 N. Main Street, lives diagonally across the street from this property. Since the previous store closed, there has been a reduction in foot traffic, loitering, and trash. Safety in the area has improved. The existing convenience store across the street seems to initiate problems with trash and violence. He is concerned that these problems would increase when the new convenience store opens. The appearance of the neighborhood is important to him, and he is afraid this business might affect the appearance in a negative manner, which could decrease property values.

Brenda Cooper, lives next door to the property at 108 E. Henderlite Street. She is concerned about the traffic and agrees with Mr. Koontz on this issue. She recalls that the clean-up of the previous tanks and soil was not completed and fears the sale of gasoline would add to the pollution problem.

Tyler Keryluk, 925 N. Main Street, approves of the church and its involvement in the community, but questions whether a gas station is the appropriate means to accomplish its goal. The presence of the current convenience store across the street produces foot traffic, loitering and litter. He has concerns about the environment if the new business installs gas tanks.

Pat Sylvester represents Old North Salisbury Neighborhood Association and resides at 820 North Main Street. Many of her neighbors are at work this time of day and could not be at the meeting. Her neighbors have asked the question, "Do we need another convenience store?" The consensus is, "No, we do not." Most of her neighbors do not shop at the present convenience store because of an experience a neighborhood attorney had one night when he was held up there. The next board meeting they had he said, "Make it your business to stay out of there." An article in the newspaper indicated that the new business would be a meeting place for people. In the past it was a hangout and the neighbors don't want another hangout in the neighborhood. There have been a number of calls to the police concerning shootings, holdups, attempted car-jackings, and so forth at the corner of 11th and North Main Streets (she has seen the printout of calls to the police concerning that corner). They do not want to encourage any more of the same in this historic district. The property being discussed today is not an attractive property. It needs a facelift and landscaping. If the special use permit is approved she hopes that certain upgrades will be required for the sake of the historic district.

Jessica Koontz, 1022 North Main Street, has three small children and feels that the safety of the neighborhood is at risk with the presence of the current convenience store. They see constant vandalism; the windows at the current store are broken due to bricks being thrown through them. She has contacted the police on several occasions because of late-night loitering. There was a gunfight that originated at that store and moved to

the front of her home. She would like to see that section of North Main Street be restored to its previous historic beauty. She feels that the current store was the primary reason why she was not able to sell her home when it was placed on the market.

Pauline Correll, 1208 North Main Street, presented a letter from a neighbor to the Board. She lives diagonally from the sight of the proposed new business, and has lived there 60 plus years. The convenience store was there for a long time. After it closed the neighborhood hoped things would improve.

Co-Chairman Rodney Queen read the letter from Diana and Michael Turner, 1210 North Main Street. The letter expressed concerns about the business becoming another drug hangout. They feel that this business will increase people hanging out and drug trafficking. Many neighbors will consider moving when this opens. The appearance of the property must be improved. **Co-Chairman Rodney Queen** then asked for persons in opposition to stand and be counted. Nine persons stood.

The chairman closed the courtesy hearing on this case.

(b) Board Discussion:

Jeff Smith asked David Phillips about signage in B-CS, about the Board's landscaping requirement capability, and the proposed hours of operation. **David Phillips** responded that they are allowed a ground sign 40 sq. ft., 15 ft. in height; canopy signs will be allowed as well as wall signs. The board can restrict size limitations on the signs and signs do have to be approved by The Historic Preservation Commission. Additional landscaping can be required. In the B-CS district there is a maximum 2000 sq. ft. building size. This building is around 900 sq. ft.

[**Michael King** said the hours of operation depend on whether they will be allowed to sell gasoline. They do have a permit to open as a community grocery and a deli. This would close earlier than a convenience store. If they are permitted to sell gas, they will probably close around 11:00 p.m. or midnight. Hours will be established according to the traffic of its customers. He reiterated the fact that they would not sell alcohol or tobacco.]

Sandy Reitz asked if a special use permit is granted to Mr. King and in the future the church chooses to vacate the property, is the special use permit transferred or is it then void? David Phillips said the permit does not transfer. She applauds the church's intentions. She is concerned about opening a convenience store near a school and encroaching on a neighborhood. Was there a precedence established by the Board on this issue?

Rodney Queen said even though it is encroaching on a neighborhood, the zoning is in place and it is located at the corner of an intersection.

[**David Phillips** suggested that even if the special use permit is approved by City Council, it can revoke the permit if there are complaints about the business.]

Brian Miller added that the property across the street is “the issue.” He received confirmation that the property across the street is B-CS and it is a grandfathered situation. He would like to know what the City could do to improve that situation.

Lou Manning said alcohol is a concern for neighborhoods and Mr. King has stated that there will be no sale of alcohol or tobacco. Mr. Manning would like to be sure that is part of the special use permit.

Len Clark reiterated the fact that if the store opened without the gas tanks it will not have to have this special use permit.

Jeff Smith is interested in seeing something positive happen at this intersection; more positive than what already exists there. He is not thrilled with the potential of late hours of operation. He would like to look at some options such as installing additional street trees. This is an opportunity to improve the appearance of the site and address issues such as lighting, signage and the hours of operation. He made the motion that this case be sent to committee for further review. **Lou Manning** seconded the motion with members voting AYE except for Albert Stout, who voted NAY.

It was decided that this would be sent to Committee 1 (Sandy Reitz, ch, Lou Manning, Jeff Smith, Albert Stout) for further review. Harold Poole will confirm that the Council Chamber is available Tuesday, May 18 at 8:30 a.m. for the first meeting.

GROUP DEVELOPMENT SITE PLAN

G-06-04 St. John’s Child Development Center - 300 West Innes Street

David Phillips made a staff presentation of the proposed addition of approximately 8800 sq ft. They are landscaping and bringing the existing parking lot up to standard with parking lot trees. Staff is recommending approval as submitted.

Those speaking in favor of the site plan: None

Those speaking in opposition to the site plan: None

Board Discussion

Jerry Wilkes is pleased to see this improvement, which will serve a need for child care.

Brian Miller made a motion to approve as submitted. **Lou Manning** seconded the motion with all members voting AYE.

PRELIMINARY PLAT SUBDIVISION

S-06-04 Salisbury Lumber – 1910 South Boundary Street (between Klumac & Jake Alexander Blvd.)

Patrick Ritchie, made a staff presentation for the request to subdivide an approximately 23-acre tract. Two driveways were built by the City when Boundary Street was created. The Technical Review Committee (TRC) is recommending approval as submitted with a restriction to limit driveway access to Boundary Street. VISION 2020 and the Uniform Construction Standards instruct the limitation of driveways on major and minor thoroughfares. Mr. Ritchie also covered sewer plans.

Those speaking in favor of the site plan: None

Those speaking in opposition to the site plan: None

Board Discussion

Jeff Smith made a motion to approve this plan with the stipulations set forth by TRC. **Albert Stout, Jr.** seconded the motion with all members voting AYE.

COMMITTEE REPORTS

Committee studying rezoning from B-6 to B-5 (B. Miller, ch.) – Janet Gapen distributed a proposed text amendment (changes to B-5). There are areas currently zoned B-6 that would require a 30' setback if redeveloped. This zoning change would offer more flexibility if the lot were redeveloped. The handout explained the changes in signage. The committee is not recommending that any non-conforming situations that are created with this change require a sign be taken down or to be amortized. Existing signs would be “grandfathered” under their current status. If they were changed by the owner, new signs would require the new requirements. They will be adding a use to contractor’s offices to be permitted in the B-5 district and outside storage of equipment and materials be allowed under certain conditions.

Brian suggested two directions the Board could take: The Board could approve the text amendment that is presented today and City Council could have a Public Hearing on it, or the Board could schedule a Courtesy Hearing. He recommended a vote today if the Board felt prepared and let City Council have the Public Hearing.

Harold Poole suggested that normally a text amendment does not require a mailing, but if there are people or property owners directly affected by this decision, perhaps a mail notification would be appropriate. Either a vote for approval or setting a Courtesy Hearing would be fine.

Brian suggested that two hearings would not be necessary since the changes allowed more flexibility rather than restrictions.

Harold wanted to know if these changes would take care of anything the committee might encounter in other areas under discussion. He wanted to be sure all text changes were made at one time; one or more public hearings on zoning map changes may be necessary.

Janet said that the committee looked at all four areas at once so they would not have to come back with multiple text amendments.

Diane Young asked if Downtown Salisbury, Inc. (DSI) was supportive of these changes and Brian said "yes." Brian also explained that with the new code being discussed, the B-5 will become a Central Business District classification and the B-6 will be mapped to a Corridor Highway classification.

Brian Miller made a motion to accept the text amendment being presented today.

Lou Manning seconded with all members voting AYE. There will not be a Courtesy Hearing.

[**Brian Miller** had to leave the meeting at this time. **Mitzi Clement** left, too.]

Jeff Smith took over the committee report with a request to schedule a Courtesy Hearing for a map amendment that the committee proposes for North Main Street during the first meeting in June. He made a motion to set the Courtesy Hearing for the June 8 meeting. **Jerry Wilkes** seconded the motion with all members voting AYE.

ZONING TEXT AMENDMENT

Harold Poole would like to refer a text amendment on wall murals to a committee. This addresses murals and painted wall signs that are not covered by the current ordinance. This is a request from staff in view of art projects that are being considered.

Jerry Wilkes asked if the Community Appearance Committee (CAC) should be involved. Harold added that the Historic Preservation Commission (HPC) should be involved, too.

Janet Gapen added that there is a subcommittee of the CAC that is working on the development of public art and history trail downtown. They will be developing guidelines for the HPC (for applicants).

Harold Poole assigned this project to Committee 3, (Jerry Wilkes, Len Clark, Valerie Stewart, Diane Young). There will be a meeting on Wednesday, May 19 at 4:00 p.m.

OTHER BUSINESS

Harold Poole reviewed the Regional Planning Summit meeting and the actions of City Council as they pertain to the Planning Board.

Rodney Queen made a motion to have a prayer prior to Planning Board meetings. Seven members voted AYE and three voted NAY. Those voting NAY were Dr. James Johnson, Sandy Reitz, and Jeff Smith. Reasons for the NAY votes were based on the separation of church and state. Jeff added that if there is to be an opening prayer it should be as inclusive as possible.

The next Planning Board meeting will be May 25, 2004.

There being no further business to come before the Board, the meeting was adjourned.

Co-Chairman, Jeff Smith

Co-Chairman, Rodney Queen

Secretary, Diana Moghrabi